

SB 54 Informal Rulemaking Workshop: May 2023 Workshop Discussion Document - 1

SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations

May 31, 2023

Department of Resources Recycling and Recovery

SB 54 Regulation Implementation Team:

Packaging EPR Section

Knowledge Integration Section

Regulations Unit

Topic: Source Reduction

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Overview and Purpose of Workshop

The Department of Resources Recycling and Recovery (CalRecycle) has scheduled a workshop on [May 31, 2023](#), from 10:00AM to 4:00PM, in the Byron Sher Auditorium, located on 2nd Floor, 1001 I Street, Sacramento, CA 95814, to consult with the public, the regulated community, and other interested parties to solicit feedback on some of the requirements outlined in [SB 54 \(Allen, Chapter 75, Statutes of 2022\)](#).

The topic of this workshop will be “source reduction” (SR). This workshop is split into three parts:

- **SR Part 1** will be an informational session, providing background information on the requirements discussed in this document.
- **SR Part 2** will discuss non-regulatory concepts to solicit feedback.
- **SR Part 3** will discuss several regulation concepts to solicit feedback in order to aid the Department in the development of draft regulatory text.

The purpose of this document is to provide an overall outline of what is going to be discussed and the type of feedback CalRecycle plans on soliciting in advance of the workshop. All requests for feedback or informational items to share with interested parties will be specified in a gray textbox.

This document will not address the following topics:

- Needs Assessment
- Recyclability
- Recycling Rates
- Compostability
- Responsible End Markets (see *May Workshop Discussion Document 2*)
- Covered Material Category Determination
- Enforcement
- PRO Plan*
- Budgets*
- Document submittals*
- Annual reports*

The topics above marked with (*) are topics that were covered in previous workshops and others will be addressed at a subsequent workshop. Discussion documents, presentation slides, and other information from prior workshops can be found on the [SB 54 webpage](#) under *Past Events*.

Part I. Background and Informational Items

Source reduction (PRC 42041(aj)) is defined as a reduction in the amount of covered material created by a producer relative to a baseline. Methods of source reduction include, but are not limited to, shifting covered material to reusable or refillable, or eliminating unnecessary packaging.

Abbreviations and Acronym List

- CalRecycle: California Department of Resources Recycling and Recovery
- Department: California Department of Resources Recycling and Recovery
- PRO: Producer Responsibility Organization
- PRC: Public Resources Code (California Statute)

Relevant Definitions

Listed below are the existing statutory definitions relevant to the May 31, 2023, rulemaking workshop. CalRecycle may further refine these definitions in regulations.

Bulk or large format packaging – PRC 42041(b)

“Bulk or large format packaging” means packaging for a large amount of a product in a large packaging, thereby offsetting the need for multiple smaller packaging units for the same amount of product.

Concentrate, Concentration – PRC 42041(d)

“Concentrate” or “concentration” means reducing the amount of packaging needed for a product by reformulating the product to allow for smaller quantities of the product to be used for the same purpose as the previous, larger quantity.

Covered material – PRC 42041(e)

(1) “Covered material” means both of the following:

(A) Single-use packaging that is routinely recycled, disposed of, or discarded after its contents have been used or unpackaged, and typically not refilled or otherwise reused by the producer.

(B) Plastic single-use food service ware, including, but not limited to, plastic-coated paper or plastic-coated paperboard, paper or paperboard with plastic intentionally added during the manufacturing process, and multilayer flexible material. For purposes of this subparagraph, “single-use food service ware” includes both of the following:

(i) Trays, plates, bowls, clamshells, lids, cups, utensils, stirrers, hinged or lidded containers, and straws.

(ii) Wraps or wrappers and bags sold to food service establishments.

(2) Notwithstanding paragraph (1), “covered material” does not include any of the following:

(A) Packaging used for any of the following products:

- (i) Medical products and products defined as devices or prescription drugs, as specified in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 321(g), 321(h), and 353(b)(1)).
 - (ii) Drugs that are used for animal medicines, including, but not limited to, parasiticide products for animals.
 - (iii) Products intended for animals that are regulated as animal drugs, biologics, parasiticides, medical devices, or diagnostics used to treat, or administered to, animals under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), the federal Virus-Serum-Toxin Act (21 U.S.C. Sec. 151 et seq.), or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).
 - (iv) Infant formula, as defined in Section 321(z) of Title 21 of the United States Code.
 - (v) Medical food, as defined in Section 360ee(b)(3) of Title 21 of the United States Code.
 - (vi) Fortified oral nutritional supplements used for persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined as by the International Classification of Diseases, Tenth Revision, or other medical conditions as determined by the department.
- (B) Packaging used to contain products regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).
- (C) Plastic packaging containers that are used to contain and ship products that are classified for transportation as dangerous goods or hazardous materials under Part 178 (commencing with Section 178.0) of Subchapter C of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations.
- (D) Packaging used to contain hazardous or flammable products regulated by the 2012 federal Occupational Safety and Health Administration Hazard Communications Standard (29 C.F.R. 1910.1200).
- (E) Beverage containers subject to the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 (commencing with Section 14500)).
- (F) Packaging used for the long-term protection or storage of a product that has a lifespan of not less than five years, as determined by the department.
- (G) Packaging associated with products covered under the architectural paint recovery program established pursuant to Chapter 5 (commencing with Section 48700) of Part 7.
- (H) (i) Covered material for which the producer demonstrates to the department that the covered material meets all of the following criteria:
- (I) The covered material is not collected through a residential recycling collection service.
 - (II) The covered material does not undergo separation from other materials at a commingled recycling processing facility.
 - (III) The covered material is recycled at a responsible end market.
 - (IV) The material has demonstrated a recycling rate of 65 percent for three consecutive years prior to January 1, 2027, and on and

after that date demonstrates a recycling rate at or over 70 percent annually, as demonstrated to the department every two years.

(ii) If only a portion of the covered material sold in or into the state by a producer meets the criteria of clause (i), only the portion of the covered material that meets the criteria of clause (i) is exempt from this chapter and any portion that does not meet the criteria is a covered material for purposes of this chapter.

Eliminate, Elimination – PRC 42041(j)

“Eliminate” or “elimination,” with respect to source reduction, means the removal of a plastic component from a covered material without replacing that component with a nonplastic component.

Lightweighting – PRC 42041(m)

“Lightweighting” means reducing the weight or amount of material used in a specific packaging or food service ware without functionally changing the packaging or food service ware. “Lightweighting” does not include changes that result in a recyclable or compostable covered material becoming nonrecyclable or noncompostable or less likely to be recycled or composted.

Malus Fee – PRC 42041(o)

“Malus fee” means a charge imposed by a PRO on a participant producer for a covered material due to the adverse environmental or public health impacts of the covered material.

Optimize, Optimization – PRC 42041(r)

“Optimize” or “optimization” means limiting the amount of covered material used in packaging by meeting product or packaging needs with minimal material. This includes, but is not limited to, eliminating unnecessary components, right-sizing, concentrating, and using bulk or large format packaging.

Packaging – PRC 42041(s)

“Packaging” means any separable and distinct material component used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods. “Packaging” includes, but is not limited to, all of the following:

- (1) Sales packaging or primary packaging intended to provide the user or consumer the individual serving or unit of the product and most closely containing the product, food, or beverage.
- (2) Grouped packaging or secondary packaging intended to bundle, sell in bulk, brand, or display the product.
- (3) Transport packaging or tertiary packaging intended to protect the product during transport.

(4) Packaging components and ancillary elements integrated into packaging, including ancillary elements directly hung onto or attached to a product and that perform a packaging function, except both of the following:

(A) An element of the packaging or food service ware with a de minimis weight or volume, which is not an independent plastic component, as determined by the department.

(B) A component or element that is an integral part of the product, if all components or elements of the product are intended to be consumed or disposed of together.

Plastic – PRC 42041(t)

“Plastic” means a synthetic or semisynthetic material chemically synthesized by the polymerization of organic substances that can be shaped into various rigid and flexible forms, and includes coatings and adhesives. “Plastic” includes, without limitation, polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride (PVC), low density polyethylene (LDPE), polypropylene (PP), polystyrene (PS), polylactic acid (PLA), and aliphatic biopolyesters, such as polyhydroxyalkanoate (PHA) and polyhydroxybutyrate (PHB). “Plastic” does not include natural rubber or naturally occurring polymers such as proteins or starches.

Plastic component – PRC 42041(u)

“Plastic component” means any single piece of covered material made partially or entirely of plastic. A plastic component may constitute the entirety of the covered material or a separate or separable piece of the covered material.

Reusable, Refillable, Reuse, Refill – PRC 42041(af)

“Reusable” or “refillable” or “reuse” or “refill,” in regard to packaging or food service ware, means either of the following:

(1) For packaging or food service ware that is reused or refilled by a producer, it satisfies all of the following:

(A) Explicitly designed and marketed to be utilized multiple times for the same product, or for another purposeful packaging use in a supply chain.

(B) Designed for durability to function properly in its original condition for multiple uses.

(C) Supported by adequate infrastructure to ensure the packaging or food service ware can be conveniently and safely reused or refilled for multiple cycles.

(D) Repeatedly recovered, inspected, and repaired, if necessary, and reissued into the supply chain for reuse or refill for multiple cycles.

(2) For packaging or food service ware that is reused or refilled by a consumer, it satisfies all of the following:

(A) Explicitly designed and marketed to be utilized multiple times for the same product.

(B) Designed for durability to function properly in its original condition for multiple uses.

(C) Supported by adequate and convenient availability of and retail infrastructure for bulk or large format packaging that may be refilled to ensure the packaging or food service ware can be conveniently and safely reused or refilled by the consumer multiple times.

Right-size, Right-sizing – PRC 42041(ag)

“Right-size” or “right-sizing” means reducing the amount of material used to package an item by reducing unnecessary space or eliminating unnecessary components of the packaging.

Source reduction – PRC 42041(aj)

“Source reduction” means the reduction in the amount of covered material created by a producer relative to a baseline established pursuant to subdivision (b) of Section 42057. Methods of source reduction include, but are not limited to, shifting covered material to reusable or refillable packaging or a reusable product or eliminating unnecessary packaging. “Source reduction” does not include either of the following:

- (1) Replacing a recyclable or compostable covered material with a nonrecyclable or noncompostable covered material or a covered material that is less likely to be recycled or composted.
- (2) Switching from virgin covered material to postconsumer recycled content.

Source reduction plan – PRC 42041(ak)

“Source reduction plan” means the plan prepared as part of the PRO plan in accordance with Section 42057.

Overview of Source Reduction

PRC 42050(a) requires that all plastic covered material is source reduced pursuant to the requirements established in PRC 42057. PRC 42057 outlines the information for producers of plastic covered material to comply with the requirements to achieve the mandates for source reduction.

Summary of Source Reduction – CalRecycle Responsibilities

- By January 1, 2025, CalRecycle is required to establish a baseline for the 25 percent source reduction requirement by weight and by number of plastic components of plastic covered material sold, offered for sale, or distributed in the state in the year 2023 – PRC 42057(b)
- Beginning in 2030 and every five years thereafter, CalRecycle is required to evaluate plastic covered material to determine if actions to secure greater source reductions are necessary. If CalRecycle determines that there has been an increase in the number of plastic components or the overall weight of plastic covered material, CalRecycle shall take action to secure greater source reductions – PRC 42057(h)

- CalRecycle is required to prepare one or more initial statewide needs assessments, which will be updated every five years or as necessary. The needs assessment shall include an evaluation of topics related to source reduction, such as actions and investments that would be effective in achieving source reduction requirements – PRC 42067

Summary of Source Reduction – Producer & PRO Responsibilities

Achieving Source Reduction for Plastic Covered Material

- As outlined in PRC 42057(a), the PRO is required to source reduce plastic covered material, including specific goals for shifting plastic covered material to reusable or refillable packaging and food service ware systems with the following specific requirements:
 - By January 1, 2027, source reduce no less than 10 percent of plastic covered material, with no less than 2 percent through shifting to reusable or refillable
 - By January 1, 2030, source reduce no less than 20 percent of plastic covered material, with no less than 4 percent through shifting to reusable or refillable
 - By January 1, 2032, a PRO is required to achieve the 25 percent reduction by weight and 25 percent by plastic component source reduction requirement for plastic covered material with:
 - At least 10 percent of plastic covered material source reduced through shifting a plastic covered material to refillable or reusable packaging or food service ware or through eliminating a plastic component.
 - The remaining source reduction accomplished through concentration, right-sizing, lightweighting, or shifting to bulk or large format packaging that allows consumers to refill home or commercial reusable containers, or shifting from a plastic covered material to a nonplastic covered material.
 - No more than 8 percent of the plastic covered material shall be source reduced through an alternative compliance formula developed by the PRO, subject to approval by the department, that offers source reduction credit on a sliding scale based on the ratio of virgin plastic to postconsumer recycled content plastic to producers who incorporate postconsumer recycled content into plastic covered material. A producer shall only receive this alternative source reduction credit if the postconsumer recycled content is able to be validated and is validated by a third party, such as the Association of Plastic Recyclers, through its APR Postconsumer Resin Certification Program, or a similar third party approved by the department, and the content does not contain intentionally added perfluoroalkyl and polyfluoroalkyl substances.

PRO Plan & Reporting

- The required PRO plan must include a source reduction plan. – PRC 42051.1(b)(2)
- In the source reduction plan, the PRO may identify material types that face significant recycling or end market challenges and would require significant investment to bring into compliance with this chapter by January 1, 2032. Switching an entire identified covered material category to a reusable, refillable, or nonplastic alternative shall be considered source reduction. – PRC 42057(f)(3)
- The PRO must establish enforceable agreements with each of its approved plan participants to achieve the source reduction requirements. - PRC 42057(a)(1)
- As outlined in PRC 42057(d), producers who are members of the PRO shall submit to the PRO individual source reduction plans that include the following:
 - In the first individual producer source reduction plan, the producer shall include any amount of covered material, by number of plastic components and weight of covered material, the producer source reduced since January 1, 2013.
 - The amount of plastic covered material, by number of plastic components and weight of plastic covered material, the producer plans to source reduce by January 1, 2027, January 1, 2030, and January 1, 2032.
 - The producer shall submit the number of plastic components and weight of plastic covered material will be source reduced in each of the following ways:
 - Through shifting plastic covered material to a refillable or reusable package.
 - Through eliminating plastic components and plastic covered material.
 - Through shifting plastic covered material to nonplastic material.
 - Through concentration, right-sizing, lightweighting, and shifting to bulk or large format packaging that allows consumers to refill home or commercial reusable containers.
 - The amount of postconsumer recycled content used compared to virgin plastic in covered material.
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- The PRO's annual report shall include progress made in meeting source reduction goals – PRC 42051.3 (a)(3)(D)(iii)
- As outlined in PRC 42057(c), as part of any producer responsibility plan, plan update, or annual report submitted to the department, the PRO shall report the following data, disaggregated by each participant producer:
 - The amount of plastic covered material and products sold in plastic covered material, including the number of plastic components and weight of plastic covered material, sold, offered for sale, or distributed in the state.
 - The number of plastic components and the weight of plastic covered material shifted to a refillable or reusable.
 - The number of plastic components and the weight of plastic covered material eliminated.

- The number of plastic components and the weight of plastic covered material shifted from a plastic covered material to a nonplastic covered material.
- The number of plastic components and the weight of plastic covered material reduced through concentration, right-sizing, and shifting to bulk or large format packaging that allows consumers to refill home or commercial reusable containers.
- The amount of postconsumer recycled content used compared to virgin plastic in covered material.

Budget & Fee Structure

- As outlined in PRC 42051.1(j)(1), the PRO plan shall include a budget designed to fully fund the costs necessary to implement this chapter, including actions and investments necessary to achieve the source reduction requirements.
- As outlined in PRC 42053(d), the PRO shall also structure the fee schedule to include:
 - Costs necessary to achieve the source reduction requirements of this chapter.
 - Costs incurred by the PRO to assist producers to meet the source reduction requirements pursuant to Section 42057.
- As outlined in PRC 42053(e), the fees required above shall be adjusted using malus fees or credits for participant producers, with those adjustments based on the following and other criteria, as applicable:
 - Source reduction related to right-sizing, optimization, and bulking of packaging, or concentrating the product packaged to reduce packaging.
 - Actions taken by the producer to accelerate source reduction and to invest in sustained and robust reuse and refill systems. The PRO may create a mechanism to allow producers to receive a credit for achieving source reduction beyond what producers of similar covered material are achieving. The revenue for that credit shall be paid for by charging producers not achieving source reduction for similar products a malus fee.
- The PRO must require a producer with a covered material new to the producer to optimize packaging and not include unnecessary covered material. The PRO must assess a malus fee on any producer with a new covered material that is optimized, as determined by the PRO and approved by the department. - PRC 42057(g)

Part II. Workshop of Non-Regulatory Items

Non-Regulatory Item:

CalRecycle is seeking feedback on items that may not require the department to promulgate regulations. At this time, CalRecycle is informally seeking feedback on

topics and concepts that are important to implementing SB 54 but are outside of the scope of proposed regulatory concepts in Part 3.

SR Item 1: Composition of Source Reduction Baseline

Statute Sections: PRC 42057(a)(1), 42057(b)

PRC 42057(a)(1)

By January 1, 2032, a PRO acting on behalf of participants of the PRO's approved plan shall develop and implement a plan to achieve the 25-percent reduction by weight and 25 percent by plastic component source reduction requirement for covered material sold, offered for sale, or distributed in the state. The PRO shall establish enforceable agreements with each of its approved plan participants to implement this section.

PRC 42057(b)

By January 1, 2025, the department shall establish a baseline for the 25-percent reduction required in subdivision (a) based on the amount of plastic covered material, including the number of products packaged in covered material, that was sold, offered for sale, or distributed in the state in the 2023 calendar year.

The baseline will be comprised of two numbers for baseline year 2023:

- (1) Total weight (tons) of plastic covered material.
- (2) Total number of plastic components of plastic covered material.

Informational Item for Interested Parties:

CalRecycle is required to establish a baseline for plastic covered material that must be source reduced pursuant to PRC 42057. CalRecycle intends to estimate the metrics above for the source reduction baseline.

SR Item 2: Request for Feedback on Data Sources to Inform the Source Reduction Baseline

Statute Sections: PRC 42057(b), 42041(aj)

PRC 42057(b)

By January 1, 2025, the department shall establish a baseline for the 25-percent reduction required in subdivision (a) based on the amount of plastic covered material, including the number of products packaged in covered material, that was sold, offered for sale, or distributed in the state in the 2023 calendar year.

PRC 42041(aj)

"Source reduction" means the reduction in the amount of covered material created by a producer relative to a baseline established pursuant to subdivision (b) of Section 42057. Methods of source reduction include, but are not limited to, shifting covered material to

reusable or refillable packaging or a reusable product or eliminating unnecessary packaging. “Source reduction” does not include either of the following:

- (1) Replacing a recyclable or compostable covered material with a nonrecyclable or noncompostable covered material or a covered material that is less likely to be recycled or composted.
- (2) Switching from virgin covered material to postconsumer recycled content.

Establishing the Source Reduction Baseline

CalRecycle interprets that there is no requirement in statute for a PRO or producer to report data specifically for the baseline year, 2023. Moreover, it is not feasible to require the PRO to report the necessary data through rulemaking, given the timelines required for establishing the baseline and completing the rulemaking process.

CalRecycle is not aware of existing accessible data that could provide the exact weight and number of plastics components of plastic covered material sold, offered for sale, or distributed in California.

Therefore, CalRecycle is currently gathering information to inform the methodology to estimate the source reduction baseline for calendar year 2023. CalRecycle has identified multiple approaches, that could be used independently or in tandem, to estimate the baseline.

Potential Approaches to Estimate the Source Reduction Baseline

As part of meeting PRC 42057(b), CalRecycle is considering methodologies that utilize available data and those that require collecting new data as part of the Needs Assessment.

The following are potential approaches CalRecycle is considering:

Approach 1 – Using Existing Production Data: Use available production data, from national level industry and market research reports to estimate California’s plastic covered material. This will require assumptions to estimate the proportion of the national production that can be attributed to California, potentially using population, sales, or other factors.

- a. Data sources that have been identified by CalRecycle include, but are not limited to:
 - i. American Chemistry Council (ACC) Resin Reports
 - ii. National Association for PET Container Resources (NAPCOR) Industry Reports
 - iii. Flexible Packaging Association (FPA) Industry Reports
 - iv. Allied Market Research
 - v. SavvyPack

Approach 2 – Using Newly-Collected Production Data: Through a contracted study, collect information directly from producers on the amounts of covered material they sold or distributed into the state in 2023. This approach will require collected data to be extrapolated statewide to establish the baseline and participation from producers would be voluntary.

Approach 3 – Using Existing Sales Data: Use available sales data from the retail sector to estimate plastic covered material associated with products sold or distributed into California. This approach would require assumptions for primary, secondary, and tertiary packaging types used for various product types.

- b. Examples include, but are not limited to:
 - i. Nielsen Retail Scanner and Consumer Panel Data

Request for Feedback:

CalRecycle is seeking feedback on the above approaches to establish the source reduction baseline pursuant to PRC 42057(b). CalRecycle is also soliciting information on alternative approaches, not proposed above, for estimating the amount of plastic covered material being sold, offered for sale, or distributed in California.

CalRecycle recognizes that there may be other information or data sources that exist. CalRecycle is seeking information on data sources, other than those mentioned above, that could be used to meet the requirements specified in PRC 42057(b), including the name and availability of existing data sources, and any other supporting documentation about the data sources.

Part III. Workshop of Regulation Concepts

Regulation Concepts:

The rulemaking process is for implementing, interpreting, or making specific statutes the department administers or enforces. Generally, the rulemaking process must follow the requirements of the Administrative Procedures Act, commencing with Government Code section 11340. Currently, CalRecycle is in the period of public participation prior to the publication of the Notice of Proposed Regulatory Action. This means CalRecycle is informally seeking feedback on proposed regulatory concepts for consideration when drafting regulations to implement, interpret, or make specific provisions of SB 54 necessary for the Department's implementation of statute.

CalRecycle would like to solicit initial feedback from interested parties on regulatory concepts pertaining to source reduction. The regulation concepts discussed in this workshop include:

- SR Item 1 – Clarification of the term “plastic component” and “types of plastic components”
- SR Item 2 – Clarification of the term “nonplastic” and “nonplastic components”

The Source Reduction plan is referenced as part of the Producer Responsibility Plan requirements [PRC Section 42051(b)(2)(B)] and Needs Assessment (PRC Section 42067) requirements. CalRecycle must promulgate regulations to identify specific requirements for the plan. These requirements will be discussed along with the overall requirements for the Producer Responsibility Plan at a future workshop.

CalRecycle welcomes written feedback and suggestions on the proposed concepts. Guidance for providing written feedback is specified on page 18.

SR Item 1: Clarification of the term “plastic component.”

Statute Sections: PRC 42041(u), 42041(j), 42041(s), 42052, 42057

The term *plastic component* is used several times in the statute, and is included in other definitions, including *eliminate* and *packaging*. SB 54 does not contain a definition of separable, which is a term used in the definition of *plastic component*.

Plastic Component – PRC 42041(u)

“Plastic component” means any single piece of covered material made partially or entirely of plastic. A plastic component may constitute the entirety of the covered material or a separate or separable piece of the covered material.

Eliminate – PRC 42041(j)

“Eliminate” or “elimination,” with respect to source reduction, means the removal of a plastic component from a covered material without replacing that component with a nonplastic component.

Packaging – PRC 42041(s)

“Packaging” means any separable and distinct material component used for the containment, protection, handling, delivery, or presentation of goods by the producer for the user or consumer, ranging from raw materials to processed goods. “Packaging” includes, but is not limited to, all of the following:

- (1) Sales packaging or primary packaging intended to provide the user or consumer the individual serving or unit of the product and most closely containing the product, food, or beverage.
- (2) Grouped packaging or secondary packaging intended to bundle, sell in bulk, brand, or display the product.
- (3) Transport packaging or tertiary packaging intended to protect the product during transport.
- (4) Packaging components and ancillary elements integrated into packaging, including ancillary elements directly hung onto or attached to a product and that perform a packaging function, except both of the following:
 - (A) An element of the packaging or food service ware with a de minimis weight or volume, which is not an independent plastic component, as determined by the department.
 - (B) A component or element that is an integral part of the product, if all components or elements of the product are intended to be consumed or disposed of together.

Regulation Concept:

CalRecycle is seeking to clarify the definition of “plastic component” by building on the April 25, 2023 workshop definition of separable, and further defining plastic component by adding a list of types, which will not be a definitive list.

PRC 42041(t) defines plastic as *a synthetic or semisynthetic material chemically synthesized by the polymerization of organic substances that can be shared into various rigid and flexible forms, and includes coating and adhesives. “Plastic” includes, without limitation, polyethylene terephthalate (PET), high density polyethylene (HDPE), polyvinyl chloride (PVC), low density polyethylene (LDPE), polypropylene (PP), polystyrene (PS), polylactic acid (PLA), and aliphatic biopolymers, such as polyhydroxyalkanoate (PHA) and polyhydroxybutyrate (PHB). “Plastic” does not include natural rubber or naturally occurring polymers such as proteins or starches.*

CalRecycle’s proposed definition of “separable,” covered in the April 25, 2023 workshop, includes:

- “Separable” means any covered material designed by the producer to be detachable upon use.

Proposed Definition:

Plastic Component means any single piece of covered material made partially or entirely of plastic as defined in PRC 42041(t). A plastic component may constitute the entirety of the covered material or a covered material that is separate or separable as defined in Section X (i.e., definition of *separable* above).

- Entire plastic components include, but are not limited to, straws, utensils, air, or cushioning pillows with or without perforations, hinged caps or lids, and package handles.
- Separate or separable plastic components include, but are not limited to, lids, caps, bags, bottles, cans, cartons, jars, jugs, labels, retail clothing hangers, film or shrink film.

Request for Feedback:

CalRecycle is seeking feedback on the proposed concept to clarify the definition of plastic component and types of plastic components by developing a definition for *separable* (as done previously in the April 25, 2023, workshop) and further defining *plastic component* by adding a list of types.

SR Item 2: Defining the term “nonplastic” and “nonplastic component”

Statute Sections: PRC 42041(j), 42051(b)(2)(A)(ii), PRC 42057

Refer to Item #1 for the definition of *Eliminate* – PRC 42041(j)

PRO Requirements – PRC 42051(b)(2)(A)(ii)

(2) (A) Notwithstanding paragraph (1), a producer may comply with this chapter individually without participating in a PRO's plan if the producer can demonstrate to the department, and the department determines at its sole discretion, that the producer meets all of the following criteria or can demonstrate a recycling rate of 65 percent for three consecutive years prior to January 1, 2027, and on and after that date demonstrates a recycling rate at or over 70 percent annually:

- (i) From the 2013 calendar year to the 2022 calendar year, inclusive, the producer achieved a net 5 percent or greater source reduction of its covered materials through shifting to refill, reuse, or elimination.
- (ii) From the 2013 calendar year to the 2022 calendar year, inclusive, the producer achieved a net 8 percent or greater source reduction of its covered materials through optimization, concentration, right- sizing, bulking, shifting to a nonplastic packaging, or lightweighting, or increasing the number of consumer uses.

Regulation Concept:

SB 54 does not contain a definition for the terms *nonplastic* and *nonplastic component*. The term is used throughout statute and is a determining factor in the achievement of the PRO's source reduction plan. CalRecycle proposes developing a new definition to provide additional clarity. The proposed definitions include:

Proposed Definitions:

Nonplastic means any material that does not contain any plastic as defined in PRC Section 42041(t).

Nonplastic component means any single piece of covered material that does not contain any amount of plastic as defined in PRC Section 42041(t). A nonplastic component may constitute the entirety of the covered material or a separate or separable piece of the covered material.

Request for Feedback:

CalRecycle is seeking feedback on the proposed definitions for nonplastic and nonplastic component.

Process for Submitting Written Feedback

CalRecycle has developed a process for requesting written feedback or questions from interested parties. While this process is not a specific requirement, CalRecycle requests all written feedback and questions to be submitted using the specified format below, for the purposes of maintaining consistency in the way in which the information is received, and to aid with expedited review and processing. All written feedback can be submitted to packaging@calrecycle.ca.gov with the subject line: *SB 54 Plastic Pollution Prevention and Packaging Producer Responsibility Act Regulations*. Written feedback can be provided prior to the workshop and after. CalRecycle requests all feedback specific to the May 31, 2023 Workshop to be submitted no later than **June 14, 2023**. Preferred formats include e-mail, Word document, or PDF.

Requested Feedback on Specific Regulation Concepts:

When providing feedback or asking questions on a specific regulation concept, please include (1) the Item Number [e.g., SR Item 1, SR Item 2], including the specific title, (2) feedback or questions related to that regulation concept. For example, when providing feedback on *SR Item 2*, the preferred format would be:

SR Item 2 – Clarification of the term “nonplastic” and “nonplastic components”
Specific feedback related to this item...

This process can be repeated for each regulation concept an interested party wants to address. All feedback and questions can be included in the same email or document.

Questions or Feedback for Specific Public Resources Code (PRC) Sections:

When providing feedback or asking questions on a specific section in the statute, please include (1) the full section number, including any subsections associated with it, (2) feedback or questions related to that section. For example:

PRC 42051.1(b)(3)
Specific feedback or question related to this section...

This process can be repeated for each section an interested party wants to address. All feedback and questions can be included in the same email or document.

General Questions or Comments:

When asking general questions or providing general comments on topics related to this workshop that do not focus on a specific regulation concept or specific PRC section, please list each question and comment in numerical order:

Question 1: *General question on this discussion document*

Question 2: *General question on this discussion document*

Comment 1: *General comment on this discussion document*